



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,905	02/04/2004	Massimo Malini	BUGZ 2 00215	4663

7590 10/05/2005

Richard J. Minnich, Esq.
Fay, Sharpe, Fagan, Minnich & McKee, LLP
Seventh Floor
1100 Superior Avenue
Cleveland, OH 44114-2518

EXAMINER

DURAND, PAUL R

ART UNIT	PAPER NUMBER
----------	--------------

3721

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/771,905

Applicant(s)

MALINI, MASSIMO

Examiner

Paul Durand

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/7/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 and 6-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malini (EP 1 256 519) in view of Ponti (EP 0 581 747) in further view of Suolahti (US 6,305,145).

In regard to claims 1,6,10,11 and 12 and as the examiner can understand the claims, Malini discloses the invention substantially as claimed including first surface 4, moving in a direction "A", conveying product 5 onto a second surface 6, wrapping means 7, with an electric drive axis, film feed unit 8, located near slot 9, with a second drive axis powering the drive roller, allowing a film to be transported toward the second surface and a control unit 26 which variably controls the drives and which controls the operating parameters of the machine (see Figs 1,4 and C3,L27 – C4,L18). What Malini does not disclose is the use of a film tension or unwinding unit to tension the film. However Ponti teaches that it is old and well known in the art to provide a film tension unit with a roll of film 3, underneath a first and second surface a third drive axis for power driven roller 27 and 28 for the purpose of feeding a film to a wrapping machine (see Figs. 1,4 and C5,L37 – C6,L1).

Furthermore, Suolahti teaches that it is old and well known in the art of wrapping to provide a wrapping apparatus with a plurality of stretch rollers 10 and 12, mounted to plates 4, and next to a roll of wrapping material 5 and a stretch roller, pivotally mounted to arm 13, which is mounted to plates 4 for the purpose of properly stretching and tensioning a sheet of wrapping material prior to a wrapping operation.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Malini with the feed means as taught by Ponti and the stretching means as taught by Suolahti for the purpose of efficiently stretching, tensioning and feeding film to a wrapping machine.

In regard to claims 2-4 and 7, the modified invention of Malini discloses the invention substantially as claimed including the third motor axis of variably and kinematically controlled powered rollers 27 and 28, mounted on a plate and located between the roll 3 and feed roller 28r (see Ponti Figs. 1,4 and C5,L37 – C6,L1). What the modified invention does not disclose is the location of an electric axis (the examiner is assuming that applicant intends to mean the axis of the motor or drive device), which is located on the film roller or supported on the roll drum itself. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have placed the drive means on the roller and drum since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70.

In regard to claims 8 and 9, the modified invention of Malini discloses the invention substantially as claimed including sensing means 30, connected to a control

unit and controlling the feed of materials, tubular roller 29, sensor 30f for sensing the position of the roller 29 for the purpose of controlling the feed of film from a roll (see Ponti Figs. 1,4 and C5,L37 – C6,L1).

In regard to claims 13-16, the modified invention of Malini discloses the invention substantially as claimed as applied to claim 1, including a controller 26 and variable drive motor 50, which controls the wrapping arm. What Malini does not explicitly disclose is the use of a variable drive motor to drive the conveyor and wrapping rollers. However, the examiner takes Official Notice that it is old and well known in the art to provide a variable drive motor to power various parts of a packaging machine for the purpose of providing a certain degree of variability to the machine during operation. Furthermore, the examiner asserts that it has been held that providing or rearranging the location of parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified invention of Malini with a plurality of variable drive motors at various location on the machine for the purpose of providing a certain degree of variability to the machine during operation.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Malini and Ponti in further view of Ballestrazzi et al (US 4,693,053).

The modified invention of Malini discloses the invention substantially as claimed as applied to claim 1 above except for the use of a toothed drive belt to drive the feed rollers. However, Ballestrazzi teaches that it is old and well known in the art of film

packaging to provide a belt in the form of chain 40 and 41, which is driven by toothed wheels 38 and 39 for the purpose of feeding a film through a wrapping machine (see Figs. 1,2 and C3,L22-55). Furthermore, while Ballestrazzi does not disclose the use of a toothed belt, the examiner takes Official Notice that it would have been an obvious matter of design choice to have substituted a chain drive belt with a toothed drive belt. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified invention of Malini with the feed means as taught by Ballestrazzi for the purpose of efficiently feeding a film through a wrapping machine.

Response to Arguments

4. Applicant's amendment overcomes the § 112, 2nd rejection.
5. Applicant's arguments with respect to claim 1 has been considered but are moot in view of the new ground(s) of rejection.

Applicant asserts that the claims are in condition for allowance in view of the amendment of claim. The examiner disagrees, and has provided the teaching of Suolahti to address the limitation of the rollers

6. There appears to have been an error in the entrance of the claims into the application causing claims 13-16 to not be examined during the first action. As a result, this Office Action will be made non-final to give applicant a chance to respond to the new rejection of claims 13-16.

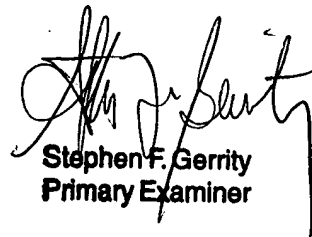
Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 571-272-4459. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand
September 29, 2005


Stephen F. Gerrity
Primary Examiner